

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:10-CV-00453-RJC

CURTIS ARNOLD

v.

UNITED STATES OF AMERICA

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ORDER

**THIS MATTER** is before the Court upon Petitioner’s pro se letter “in lieu of a formal motion,” (Doc. No. 40), for reconsideration of the Order, (Doc. No. 34), dismissing his motion, (Doc. No. 1), and counsel’s supplemental motion, (Doc. No. 15), to vacate filed pursuant to 28 U.S.C. § 2255.

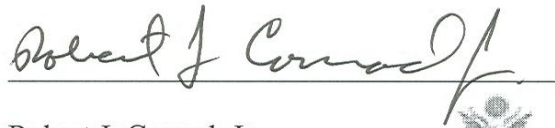
Petitioner submitted a pro se notice of appeal dated May 28, 2015, which was filed on June 2, 2015. (Doc. No. 37). He dated the instant motion June 1, 2015, which was filed on June 17, 2015. (Doc. No. 40). He does not specify a legal basis for relief; therefore, it is difficult to ascertain whether the Court has jurisdiction to entertain the motion. See Griggs v. Provident Consumer Disc. Co., 459 U.S. 56, 58 (1982) (per curiam) (the filing of a notice of appeal divests district court of jurisdiction as a general rule); but see Fed. R. App. P. 4(a)(4) (listing the effect of particular motions on notice of appeal). In an abundance of caution, the Court will rule on the merits of Petitioner’s motion.

Petitioner complains that he was deprived of the opportunity to respond to the Government’s motion to dismiss, (Doc. No. 33), because he did not personally receive a copy of the motion. (Doc. No. 40: Motion at 1). However, Petitioner had previously requested appointment of counsel, (Doc. Nos. 10, 18), and appointed counsel appeared on his behalf, (Doc.

Nos. 13, 17: Notices). The government complied with Fed. R. Civ. 5(b)(1) by serving a copy of the motion to dismiss upon counsel, (Doc. No. 33 at 8); thus, Petitioner's allegation does not provide cause to reconsider the Order resolving his motion to vacate.

**IT IS, THEREFORE, ORDERED** that Petitioner's motion for reconsideration, (Doc. No. 40), is **DENIED**.

Signed: June 24, 2015

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
United States District Judge

